IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 22ND JUNE 2007 / 1ST ASHADHA 1929

WP(C).No. 18368 of 2007(J)

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PETITIONER:

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BHARTI AIRTEL LIMITED (FORMERLY BHARTI TELE-VENTURES LIMITED), S.L. AVENUE,N.H.BYPASS, KUNDANNUR, KOCHI, REPRESENTED BY ITS HEAD-LEGAL, SRI.P.JAYABAL MENON.

BY ADV. SRI.SANTHOSH MATHEW
SRI.SATHISH NINAN

RESPONDENTS:

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1. KERALA STATE ELECTRICITY BOARD, REPRESENTED BY ITS SECRETARY, BOARD SECRETARIAT, VYDHYUTHI BHAVANAM, THIRUVANANTHAPURAM.

2. THE CHIEF ENGINEER (COMMERCIAL & TARIFF) KERALA STATE ELECTRICITY BOARD,VYDHYUTHI BHAVANAM, THIRUVANANTHAPURAM.

BY ADV. SHRI.P.P.THAJUDEEN, SC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 22/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) No. 18368/2007

**APPENDIX**

PETITIONER'S EXHIBITS

P1 : COPY OF THE B.O.(FM) NO. 739/2002 (Plg. Com.4439/2002) dated 25/05/2002 ISSUED BY THE FIRST RESPONDENT.

P2 : COPY OF THE B.O.(FM) NO. 1522/2002 (Plg. Com.4439/2002) dated 11/11/2002 ISSUED BY THE FIRST RESPONDENT.

P3 : COPY OF THE LETTER NO. PLG.COM.4439/02/07-08/284 DATED 10/01/2007 ISSUED by the 2ND RESPONDENT.

P4 : COPY OF THE CIRCULAR NO.PLG.COM.4439/02/07-08/415 DATED 16/05/2007 ISSUED BY THE FIRST RESPONDENT.

P5 SERIES : COPY OF THE LETTER NO.BB/2006-07/73/16-3-2007 ISSUED BY THE ASST. EXECUTIVE ENGINEER, ELE. SUB DIVISION, PAPPINISSERY.

P6 : COPY OF THE NOTICE DATED 24/05/2007 ISSUED BY THE ASST. ENGINEER, CENTRAL SECTION, KOZHIKKODE TO THE PETITIONER.

P7 SERIES : COPY OF THE INVOICES ISSUED FROM THE ELECTRICAL SECTION, AZHIKODE TO THE PETITIONER.

P8 : COPY OF THE REPRESENTATION DATED 18/05/2007 SUBMITTED BY THE PETITIONER BEFORE THE CHAIRMAN, K.S.E.BOARD.

// TRUE COPY //

PA TO JUDGE.

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**C.N.RAMACHANDRAN NAIR, J.**

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**WP(C) No. 18368 of 2007**

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**Dated, this the 22nd day of June, 2007**

**J U D G M E N T**

Petitioner Company is engaged in mobile telephone operation. The tariff applicable to mobile towers is @ Rs. 9.10 per unit. However, KSEB has billed petitioner's tower @ Rs. 13.20 per unit on the ground that connection is treated as temporary, for the reason that petitioner has not obtained clearance from local authorities and has not obtained building numbers from the local authority. Since learned Standing Counsel for KSEB submitted that exemption from getting building numbers is granted only for mobile towers above roof-tops, petitioner should be granted sufficient time to get building numbers for other towers. However, there is no justification to charge higher tariff on account of petitioner's delay to get building numbers for these towers. So far as clearance from local authority is concerned, I do not think that the Board should be concerned about it because if there is no clearance, it is for the local authority to take appropriate action for violation of law, if any. WP(C) is therefore disposed of directing KSEB to charge regular tariff treating connection given to the petitioner as permanent

connection as long as operation is allowed by local authorities. Accordingly, Exts.P3 & P4 are quashed. However, Board is free to demand security or whatever charges otherwise payable for retaining connection. There will be a direction to the respondents to modify all bills applying normal tariff and applicable rate of interest. However, petitioner is bound to produce lease agreement or consent from owners of the buildings / land, where the tower is installed by the petitioner.

**(C.N.RAMACHANDRAN NAIR, JUDGE.)**

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